

ANNEX III

**RURAL LAND USERS AND DEFENDERS' ARENA:
CRIME, DEFORESTATION, AND CLIMATE CHANGE**

**Supporting Statement by Filing Parties
Observatório do Clima and Greenpeace Brazil**

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A. Introduction¹

1. Rural Land Users and Defenders are seen by environmentalists as the main protectors of nature in the Amazon rainforest, because wherever they are the land is greener, as shown by satellite images (e.g. in indigenous territories nature is always more protected than anywhere else). Like all people, they are entitled to enjoy fundamental human rights that should be protected and respected by the State of Brazil. But in the Amazon, they are also the first natural obstacles to environmental degradation and, therefore, need to be protected to safeguard the forest. And they are real obstacles: if you wish to destroy the forest, you need to attack them first. That's why crimes against humanity are so intertwined with environmental degradation in the Amazon region.
2. Therefore, the crimes against humanity referred in the main text of this communication (the 'Communication') and detailed in Annex II also violate other values (i.e. 'environmental protection for present and future generations' and 'indigenous rights', amongst others) enshrined in the Brazilian Constitution of 1988, in national legislation, and in many international treaties ratified by Brazil (e.g. Convention 169 of the International Labor Organization, amongst others).
3. In the Brazilian case, deforestation is the main vector of Greenhouse Gases (GHG) emissions and, consequently, of Brazil's contribution to climate change. Therefore, failing to protect Rural Land Users and Defenders will also augment climate change. From yet another perspective, promoting illegal deforestation means fomenting violence against the undefended traditional populations in the *campos* of the Brazilian Amazon.
4. Deforestation leads to loss of biodiversity, more GHG emissions and consequent climate change, instability of the hydrological regime, water shortages, and other environmental problems. It disrupts the food production and distribution systems. It can also reinforce or trigger endemics and pandemics. It deteriorates the living conditions of forest peoples and other communities that depend directly on their environmental resources. Elsewhere, it leads to extreme weather events such as tornados, cyclones and hurricanes, strong winds, heavy rain and snow, excess or melting ice, extreme cold or heat, floods and droughts, uncontrollable forest fires, to name a few.
5. The massive environmental harm in the context of the crimes against humanity described in this Communication is, in essence, an international issue since it the consequences inevitably expand beyond national borders; they will be felt as a myriad of extreme events around the world. According to the IPCC's (Intergovernmental Panel on Climate Change) latest report, the so-called

¹ This annex supports the 'Article 15 Communication to the Office of the Prosecutor of the International Criminal Court' alleging 'Crimes Against Humanity in Brazil: 2011 to the Present' related to 'Persecution of Rural Populations and Associated Environmental Destruction', filed on 9 November 2022 by Climate Counsel, Greenpeace Brasil, and Observatorio do Clima (the 'Communication'). In particular, it supports Sections IV.B.2 ('Gravity') and IV.C ('Interests of Justice') of the Communication.

AR6, this is already happening and if nothing is done to revert the current course, it will rapidly get much worse.²

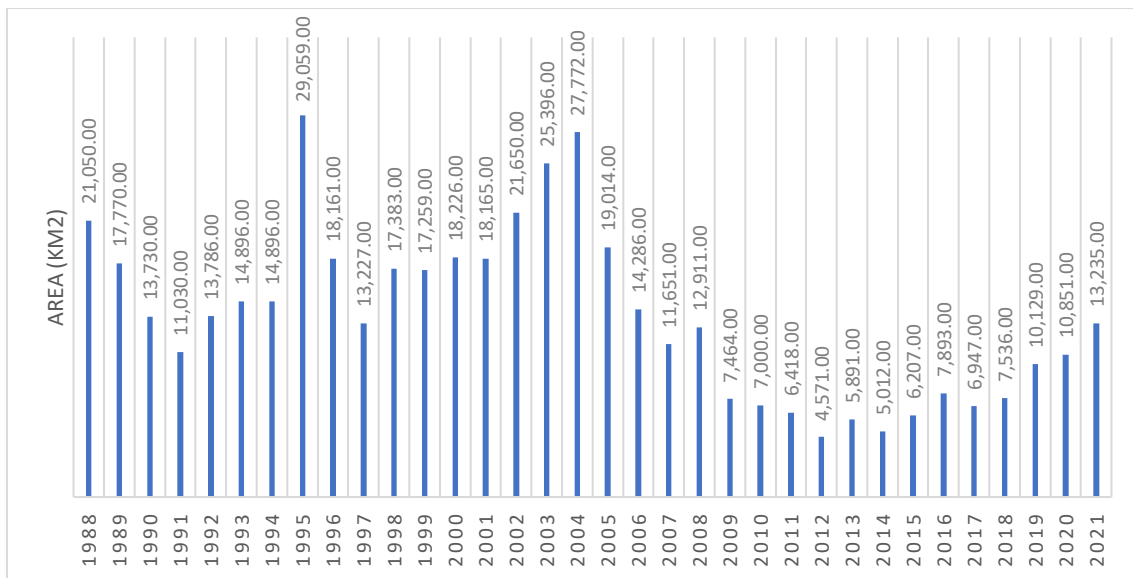
B. Deforestation Figures and Government (In)action

6. In the period between 1985 and 2019, Brazil as a whole lost 872,000 km² of native vegetation in the different biomes, the equivalent to 10.25% of its territory. In the Amazon region alone, deforestation figures released by the National Institute for Space Research (Inpe), showed a total of 470,472 km² deforested between 1988 and July 2021, the equivalent to 9.4% of the area delimited as Legal Amazon (which covers 58.9% of Brazil). More than 60% of the total deforestation in the post-1988 period occurred in the states of Pará and Mato Grosso – the two states that experienced the most serious episodes of violence in the Amazon countryside. This is not a coincidence. In Brazil, violence against traditional populations is intrinsically linked to deforestation. Violence is part of the process of deforestation.

7. When deforestation in the Amazon is analyzed over the years (Figure 1), one can see the ineffectiveness of governmental authorities in controlling the problem. This is despite the advances in environmental legislation in the 1988 Constitution and the Environmental Crimes Law. In the Brazilian Amazon, protecting traditional populations is crucial as we are to preserve the natural environment (and major contributions to climate change) but it is seriously overlooked by authorities.

² Developed by more than 800 scientists and finalized and approved by 234 authors and 195 nations, the Summary for Policymakers (SPM) presents key findings of the Working Group I (WGI) contribution to the IPCC's Sixth Assessment Report (AR6)¹ on the physical science basis of climate change. The report builds upon the 2013 Working Group I contribution to the IPCC's Fifth Assessment Report (AR5) and the 2018–2019 IPCC Special Reports² of the AR6 cycle and incorporates subsequent new evidence from climate science.

Figure 1. Deforestation in the Amazon 1988-2021



Source: Terra Brasilis (Inpe).

8. Figure 1 shows oscillations, interspersing periods of acceleration and decline in the annual deforestation rate. The most significant reduction, 83%, occurred between 2004 and 2012. In the view of the technicians who work closely on environmental policy, the main reason for the success in controlling deforestation during this period is the advent of the Action Plan for Prevention and Control of Deforestation in the Legal Amazon (PPCDAm), promoted in 2004 by President Lula, with Marina Silva as Minister of Environment.³
9. The PPCDAm was conceived as an initiative bringing together 13 ministries of the federal government, with an interdisciplinary vision and approach. Three thematic areas were assumed for the plan: Land and Territorial Planning; Environmental Monitoring and Control; and Promotion of Sustainable Production Activities. In the fourth phase of the plan, there was a fourth axis, Economic and Normative Instruments, with the objective of creating mechanisms that would encourage a forest-based economy.
10. The PPCDAm was coordinated by the Civil House of the Presidency of the Republic until March 2013, and from then on by the Ministry of Environment (MMA). The displacement of the plan's coordination to the MMA probably explains the reduction in the plan's strength and implementation after 2013, with reflections on the deforestation rate in the Amazon (Figure 1). Historically, the MMA portfolio has substantially lower budgetary resources and, more importantly, less political power than the Civil House. Even so, the plan showed enough vigor to

³ According to Rodrigues & Araújo, *Prevenção e Controle do Desmatamento: avanços e desafios pós-1988*. In: *Desigualdades Socioespaciais no Brasil pós-1988/ Steinberger et al.* Brasília: Libri Editorial, 2020. p. 145-170.

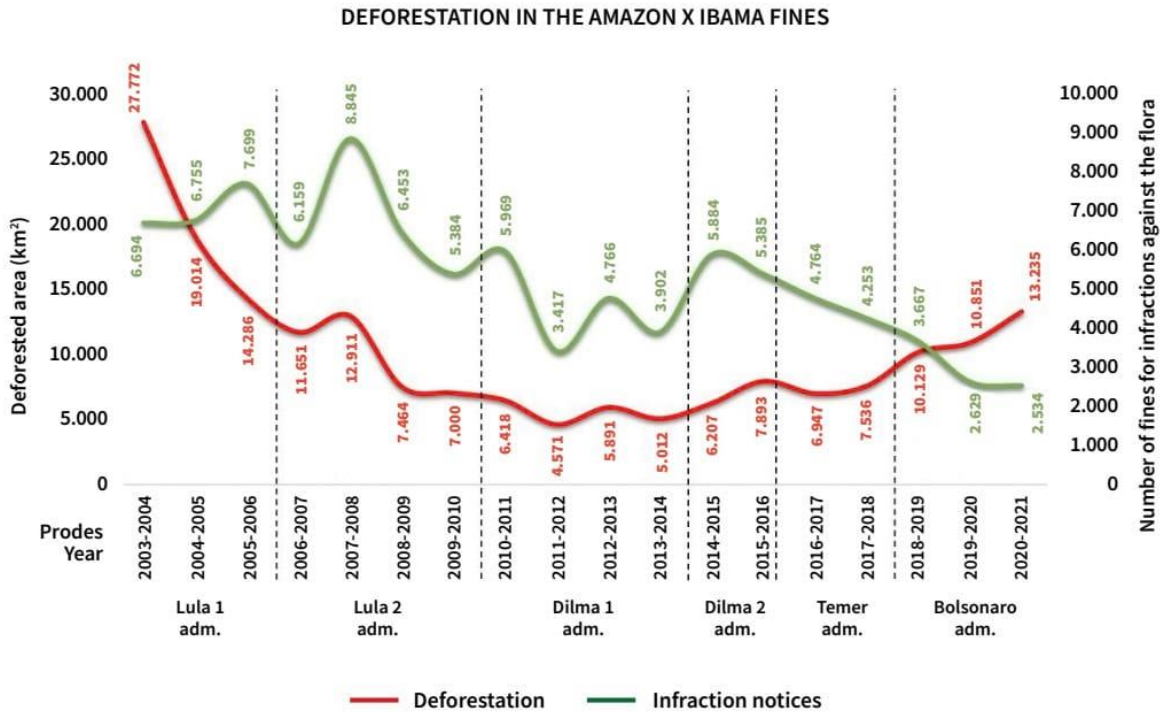
remain in function until the end of the Temer administration. As expected, the PPCDAm was completely halted under Bolsonaro.

11. Another likely factor in the increase of deforestation after 2012, is the promulgation of the new Forest Law, promoted by the *Ruralistas*. This law provided for the possibility of regularizing illegal deforestation granted before July 2008, which stimulated new deforestation (given the prospect of future amnesty).
12. The fourth phase of the PPCDAm (2016–2020) was interrupted at the very beginning of the Bolsonaro administration. The equivalent plan for the Cerrado biome (the Brazilian savanna) was also halted by President Bolsonaro.
13. The Action Plan for Prevention and Control of Deforestation and Burning in the Cerrado (PPCerrado) was created in 2010. Deforestation in the Cerrado is strongly associated with the expansion of agriculture and cattle ranching. It is the biome that concentrates most of the soybean production in the country. It also results from the rise of demand for wood for charcoal production for the steel industry and other consumers.
14. The region known as Matopiba, an important frontier for the expansion of agriculture and cattle ranching and a region of violent disputes between landowners, squatters, and traditional communities, has been prominent in Cerrado deforestation. In 2021, Inpe registered deforestation of 8,531 km² in the Cerrado biome, with the four states of Matopiba (Maranhão, Tocantins, Piauí and Bahia) being responsible for 64% of this total.⁴
15. The Bolsonaro administration discontinued the PPCDAm and the PPCerrado. This was contrary to the law since these plans are legally mandatory for any administration, being central tools of the National Policy on Climate Change (PNMC). President Bolsonaro opted to paralyze both in a manner consistent with his administration's policy of dismantling Brazil's entire environmental protection system.⁵
16. As an illustration, see the comparison between law enforcement acts in the Amazon made by different governments, measured by infraction notices issued by the Brazilian Institute for the Environment and Renewable Natural Resources (Ibama) related to deforestation in the Amazon (Figure 2).

⁴ See <http://terrabrasilis.dpi.inpe.br/app/dashboard/deforestation/biomes/cerrado/increments>.

⁵ See www.oc.eco.br/en/a-conta-chegou-o-terceiro-ano-de-destruicao-ambiental-sob-jair-bolsonaro/; www.oc.eco.br/wp-content/uploads/2021/11/1000Days_Digital_E_v1.pdf; www.oc.eco.br/wp-content/uploads/2021/01/Passando-a-boiada-EN-1.pdf.

Figure 2. The intensity of Ibama's actions in the Amazon

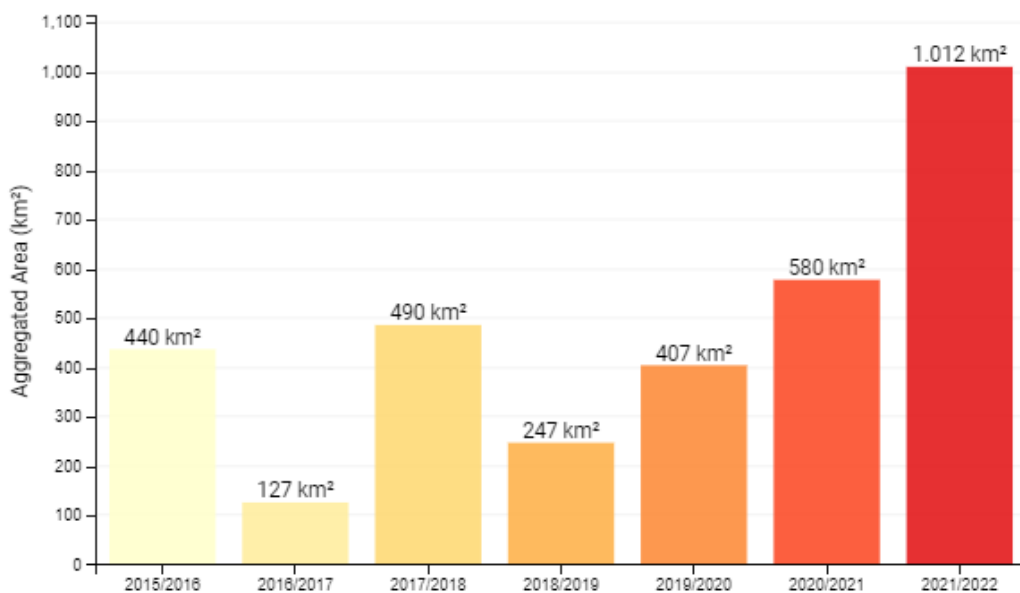


Sources: Inpe and Ibama. Data downloaded in January 2022.

17. At the Glasgow Cop26 Climate Conference (2021) the Brazilian government publicly committed to eliminate illegal deforestation in the country by 2028 and, furthermore, signed the Declaration on Forests, which foresees that signatory countries zero deforestation by 2030. It will be virtually impossible to fulfill these commitments without the PPCDAm and the PPCerrado.
18. In 2022, deforestation numbers continue to grow. Alerts emitted by Inpe's Deter system considering the first 29 days of April 2022 show an increase of more than 74% in deforested areas in the Brazilian Amazon compared to the same month in 2021 (Figure 3 below). These are provisional numbers aiming to orient on-site fiscalisation efforts. The aggregate definitive yearly rate will be released by the Prodes system, also from Inpe, which consolidates the total deforestation numbers at the end of each year, and normally reveals higher totals than Deter. Thus, the prognostic for 2022 is dire.
19. Deter informs that more than 1,000 km² of forest was cleared only in April. Considering that it took place still during the rainy season in the Amazon, which supposedly makes it more difficult for environmental offenders to act due to the bad conditions of roads which turns more difficult to move around in the region, it is an unprecedented and unbelievable number.

20. The April number indicates the continuity and consolidation of the growth curve of deforestation in the biome, as a direct result of Bolsonaro's anti-environmental policies, which permanently delegitimize and dismantle environmental agencies. Based on Bolsonaro's own narrative, it sends a clear message that environmental degradation is supported by the federal government itself.
21. It also shows the total failure of Bolsonaro administration's alleged attempts to control deforestation in the Amazon by the use of the armed forces, in absolute disregard of the historic role and success of the environmental agencies on such task.
22. This deforestation growth also exposes the extremely negative effects of the PPCDAm's abrupt halt, without its substitution with any other consistent public policy.

Figure 3. Amazon deforestation alerts (Deter) in April 2022 (until 29th)



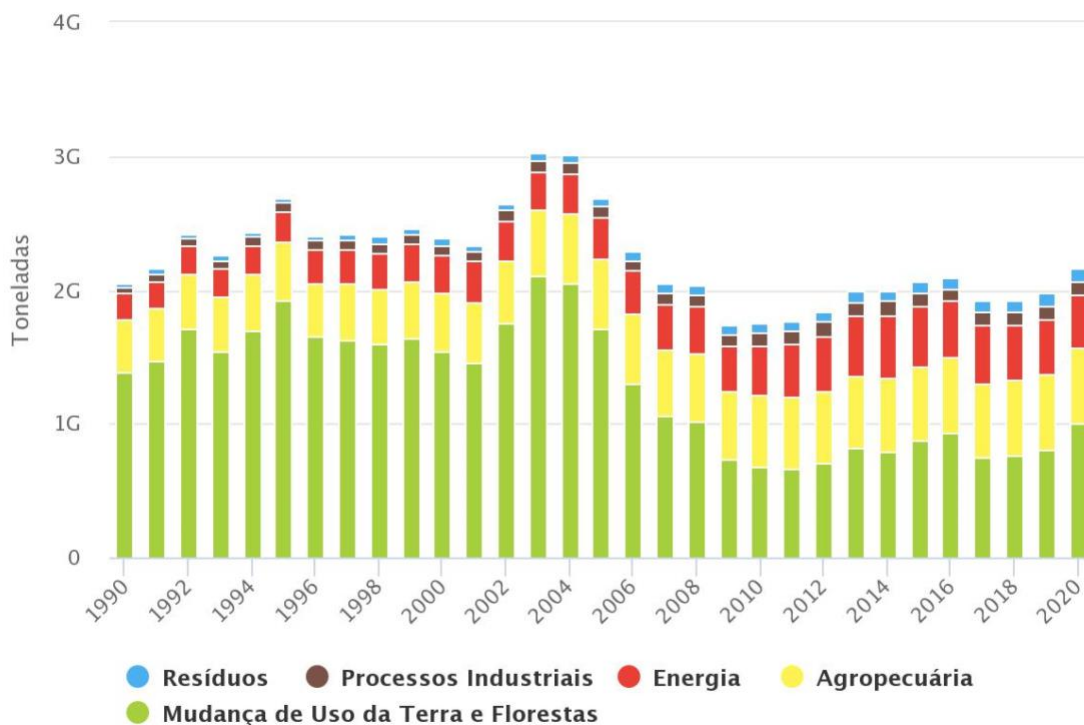
Source: Terra Brasilis (Inpe).

C. The Relationship Between Deforestation and Climate Policy

23. As mentioned above, the law on the PNMC includes the PPCDAm and the PPCerrado as its instruments. This demonstrates an appreciation that deforestation control and climate policy are closely linked.

24. An analytical document of the System of Estimates of Emissions and Removals of Greenhouse Gases (SEEG), an initiative of the Observatório do Clima comprising the production of annual estimates of GHG emissions in Brazil, illustrates that in 2020, 46% of the total gross Brazilian emissions, 998 million tons of CO₂ equivalent (MtCO₂e), were connected to "land use changes" sector, namely, deforestation.⁶
25. Largely due to deforestation, while global emissions reduced by 7% in 2020 due to the economic slowdown from Covid, the Brazilian emissions increased by 9.5%.⁷
26. In the chart of Brazilian emissions in 2020 per sector, first comes agriculture and cattle raising, with 27% of gross emissions (577 MtCO₂e); then the energy sector, with 18% (394 MtCO₂e); then industrial processes, with 5% of the total (100 MtCO₂e); and then the waste sector, with 4% of gross emissions (92 MtCO₂e). See Figure 4.

Figure 4. GHG emissions per sector (2020)



Source: Observatório do Clima/SEEG (https://plataforma.seeg.eco.br/total_emissao#).

27. It is apparent that, in Brazil, the control of deforestation is extremely relevant for climate policy, with clear repercussions at the international level. Brazil is the fifth largest emitter of GHG in the

⁶ See https://seeg-br.s3.amazonaws.com/Documentos%20Analiticos/SEEG_9/OC_03_relatorio_2021_FINAL.pdf.
⁷ See https://seeg-br.s3.amazonaws.com/Documentos%20Analiticos/SEEG_9/OC_03_relatorio_2021_FINAL.pdf.

world, behind China, USA, India and Russia. In 2020, the average CO2 emission per Brazilian was 10.2 gross tons, while the world average was 6.7. In other words, deforestation not only affects Brazil and Brazilians, but also the world. The destruction of the Amazon contributes meaningfully to the global climate imbalance and to the occurrence of extreme events.

28. One successful initiative relating to deforestation and climate change is the Amazon Fund. Created in 2008 by presidential decree, it was set-up to receive voluntary donations to help fund programs of prevention, monitoring and combat of deforestation, conservation and sustainable use of the Legal Amazon. It received donations mainly from Norway and Germany. It financed 102 projects, from the public sector and non-governmental organizations, with impressive results.⁸
29. By way of example, since the end of 2016, the Fund has paid for Ibama to hire vehicles and helicopters to survey the Amazon. Unfortunately, Ibama-Amazon Fund agreement, is soon ending and might not be renewed due to actions to undermine it by Bolsonaro administration (in particular by former Minister of the Environment, Mr Ricardo de Aquino Salles).
30. According to updated figures, there is more than R\$ 3 billion available for new projects in the Amazon Fund, already deposited by donors, which cannot be used because the Bolsonaro government has extinguished the Fund's governance structure, namely, the Guidance Committee of the Amazon Fund (COFA) and the Technical Committee of the Amazon Fund (CTFA).⁹
31. It is worth noting that the Amazon Fund financed projects for strengthening community organizations and other initiatives important for forest dwellers. The aim of the Bolsonaro administration is apparently to dismantle the entire policy of prevention and control of deforestation in Brazil. Inevitably, this results in more violence against forest populations, more deforestation, and exponential increase in GHG emissions. The consequences for the entire planet are dire.
32. Another example of Bolsonaro administration unwillingness to protect the environment is the Ministry of the Environment's decision to halt the National Fund on Climate Change (Climate Fund), another key instrument of the National Policy on Climate Change (PNMC) designed for guaranteeing resources for projects for climate change mitigation.
33. Bolsonaro's openly anti-environment policies and administration—articulated through his former Ministry of the Environment, Mr Ricardo de Aquino Salles—violated the Paris Agreement by

⁸ See www.fundoamazonia.gov.br/export/sites/default/pt/galleries/documentos/rafa/RAFA_2020_port.pdf.

⁹ See www.fundoamazonia.gov.br/pt/projeto/Profisc-I-B/, p 28.

reducing the Brazilian nationally determined contribution, weakened the control of exports of native timber, and impeded penalties for infractions applied by Brazilian environmental protection agents.

D. Conclusion

34. In the Brazilian Amazon, promoting deforestation inevitably leads to violence against the traditional populations that live there. The more the legal policies and instruments for environmental protection are undermined, the more the Rural Land Users and Defenders are unprotected and subject to violent attacks. And the more the planet's climate will suffer.

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